IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.MC.No. 3708 of 2002()

--- ---

CC.824/2000 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR

.....

PETITIONER: ACCUSED

K.E.HAMEED, KARAKUNNATH HOUSE,
THOTTUMUGHAM P.O., ALUVA.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR

RESPONDENTS: STATE & COMPLAINANT

---

1. STATE OF KERALA, REPRESENTED BY THE
DIRECTOR OF PIUBLIC PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

2. SARAMMA KURIAKOSE, PANAPPAT HOUSE,
THAMARACHAL, KIZHAKKAMBALAM P.O., ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJETH ALI.
SRI.B.N.SHIVSANKAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.P.2220/2002 IN
CRL.M.C. 3708/2002.

DISMISSED.

4/12/2007. SD/- A.K.BASHEER, JUDGE.

A.K. Basheer, J.

- -

Crl.M.C.No. 3708 of 2002

- -

Dated this the 4th day of December, 2007.

O R D E R

Having heard learned counsel for the petitioner and respondent No.2, I am of the view that this petition filed under Section 482 of the Code of Criminal Procedure need not be retained on the file of this Court any more.

2. In the proceedings before the court below which are sought to be quashed in this petition, petitioner is being prosecuted for an offence punishable under Section 138 of the Negotiable Instruments Act. The contention of the petitioner is that he had got nothing to do with the alleged cheque which had given rise to the complaint before the court below. He contends he had never issued any cheque from the said account (with which he had had no connection at all), either to the complainant or anybody else. His grievance is that he will be put to undue hardship and prejudice if he is directed to face the trial, since he is employed in the Middle East.

3. Having regard to the facts and circumstances, I am satisfied that petitioner has to be given an opportunity to raise his preliminary objection with regard to the maintainability of the above complaint against him. Learned counsel for the petitioner makes a specific plea that the court below may be directed to consider the above question as a preliminary issue after calling for the records from the Indian

Overseas Bank, Kayamkulam. I do not find any reason why the learned Magistrate shall not accede to the request that may be made by the petitioner in this regard. Further, if a prayer is made on behalf of the petitioner to exempt him from personal appearance and to allow him to be represented by his counsel, the said request shall also be considered by the learned Magistrate.

4. Crl.M.C is closed. Learned Magistrate shall make an earnest endeavour to dispose of the case as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this order.

Petitioner shall appear through his counsel before the court below on January 16, 2008. The complainant shall also be present before the court on that day.

A.K. Basheer
Judge.

an.

A.K.Basheer, J.

Crl.M.C.3708 of 2002-C

ORDER

04/12/2007.